IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 13TH FEBRUARY 2007 / 24TH MAGHA 1928

Crl.MC.No. 279 of 2007()

AGAINST THE ORDER DATED 16/12/2006 IN ORDER IN
CMP.3238/2006 of JUDL.MAGISTRATE OF FIRST CLASS-II, ALUVA
CRIME NO.667/06 OF KALAMASSERRY POLICE STATION

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PETITIONER: CLAIM PETITIONER

JOBY VARGHESE,
S/O.VARGHESE, H.NO.39/60,
LALI BHAVAN, CHITTOOR ROAD, ERNAKULAM DT.

BY ADV. SRI.K.S.MOHAMED HASHIM
SRI.S.SREEDUTT
SMT.CAROLIN SINDHU VAZ
SRI.V.M.SAJAN

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTORSRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 279 of 2007

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Dated this the 13th day of February, 2007

O R D E R

The petitioner claims to be the owner of an autorikshaw, which has been seized by the police in connection with the investigation of a crime registered, inter alia, under Section 302 I.P.C. The deceased was the driver, who took the autorikshaw on hire from the petitioner. The deceased, while driving the vehicle, was murdered by the miscreants. The petitioner, in these circumstances, filed an application for return of the vehicle to him. The learned Magistrate, by the impugned order, rejected the application and the only reason which is held out in the impugned order is that the offence is triable exclusively by a Court of Sessions.

2. Notice was given to the learned Prosecutor. The learned Prosecutor does not oppose the application. I find the challenge raised in this Crl.M.C. to be perfectly justified.

3. This Crl.M.C. is hence allowed. The learned Magistrate shall release the vehicle to the petitioner on condition that he executes a bond for the value of the vehicle with one solvent surety

and on his production of the documents showing that he is the owner of the vehicle. The original of the Registration Certificate is said to be in the custody of the court. If so, the Court shall peruse the same and pass appropriate orders.

(R. BASANT)
Judge

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